

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

1

HOUSE BILL 1955

Short Title: Winston-Salem/Forsyth Zoning.

(Local)

Sponsors: Representatives Gray; Decker, Esposito, Kennedy, Oldham, and Sexton.

Referred to: Local and Regional Government I.

June 1, 1994

A BILL TO BE ENTITLED

AN ACT CONCERNING ZONING CLASSIFICATIONS IN THE CITY OF
WINSTON-SALEM AND FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 23 of Chapter 677 of the 1947 Session Laws, as amended by Section 1(d) of Chapter 777 of the 1953 Session Laws and Section 1 of Chapter 381 of the 1973 Session Laws, reads as rewritten:

"Sec. 23. Zoning. The city and the county may jointly or separately confer upon the joint City and County Planning Board the authority and the duty of recommending revisions of existing zoning ordinances or preparing new zoning ordinances or resolutions for the city or county or any portion thereof, in accordance with the present zoning ordinance of the City of Winston-Salem and any amendments thereto and in accordance with the authority for county zoning as herein authorized.

The Board of Aldermen of the City of Winston-Salem is hereby empowered, in accordance with the conditions and procedure specified in this act, by ordinance to regulate in any portion or portions of the City of Winston-Salem the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, water supply conservation, soil conservation, forestry or other purposes.

For any or all these purposes, the City may divide its territorial jurisdiction into districts of any number, shape, and area that may be deemed best suited to carry out the purposes of this section; and within those districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of buildings throughout

1 each district, but the regulations in one district may differ from those in other districts;
2 provided, however, that the City may provide for the creation of special use districts in
3 addition to general use districts.

4 It is the purpose and intent of this section to permit Winston-Salem to create general
5 use districts in which a variety of uses are permitted, and to also create special use
6 districts in which a single use is permitted upon the issuance by the Board of Aldermen
7 of a special use permit prescribing the conditions under which such use will be
8 permitted.

9 A person petitioning for rezoning of a tract of land, where special use districts are
10 authorized by ordinance, may elect to request general use district zoning for said tract,
11 or he may elect to request special use district zoning for said tract.

12 If he elects to petition for general use district zoning, he may not refer, either in his
13 petition or at any hearings related to the petition, to the use intended for the property
14 upon rezoning. The Board of Aldermen may not consider the intended use in
15 determining whether to approve or disapprove the petition, but shall consider the full
16 range of uses permitted within the requested general use district. If the petition is
17 approved, the re-zoned property may be used for any of the uses permitted in the
18 applicable general use district.

19 If the petitioner elects to petition for special use district zoning, the petition must
20 specify the actual use intended for the property specified in the petition, and the
21 intended use must be one permitted in the corresponding general use district. If the
22 petition is for special use district zoning, the Board of Aldermen is to approve or
23 disapprove the petition on the basis of the specific use requested. If the petition is
24 approved, the Board of Aldermen shall issue a special use permit authorizing the
25 requested use with such reasonable conditions as the Board of Aldermen determines to
26 be desirable in promoting public health, safety and general welfare.

27 The conditions contained in a special use permit issued by the Board of Aldermen
28 may include: location of the proposed use on the property; the number of dwelling units;
29 the location and extent of support facilities such as parking lots, driveways, and access
30 streets; location and extent of buffer areas and other special purpose areas; the timing of
31 development; and such other matters as the petitioner may propose and the Board of
32 Aldermen may find appropriate, but not to include architectural review or controls.
33 With approval of the petitioner, the conditions may include that upon the occurrence or
34 nonoccurrence of a specified event or events, including a stated time period or time
35 lapse, the property automatically reverts to its immediately preceding zoning
36 classification without further notice, proceedings, hearings, or Board action.

37 It is the further intent of this section to permit the creation of districts for specific
38 uses and the imposition of reasonable conditions in order to secure the public health,
39 safety and welfare, and insure that substantial justice be done.

40 For the purpose of promoting the health, safety, morals and the general welfare of
41 the City of Winston-Salem and its inhabitants, and in order to give full effect to the
42 zoning ordinance of the City of Winston-Salem, as amended from time to time, said
43 zoning ordinance, together with the zone map, and any amendments thereto hereafter
44 adopted, shall operate and have effect within three miles of the corporate limits of the

1 City of Winston-Salem, as now or hereafter established. The Board of Aldermen of the
2 City of Winston-Salem may adopt ordinances from time to time zoning and rezoning all
3 or so much of said three mile area as, within the judgment of the board, should be
4 brought under the operation and effect of the city zoning ordinance. The board of
5 adjustment and the administrative officer, within said three mile area, shall have and
6 may exercise all the powers and duties now or hereafter conferred upon them by the
7 zoning ordinance of the City of Winston-Salem.

8 The extension of said zoning ordinance to said three mile area and the ordinance
9 adopted by the Board of Aldermen of the City of Winston-Salem from time to time shall
10 conform with the general development plan for this area, if and when promulgated by
11 either of the planning boards herein created.

12 Wherever in this Act the City Planning Board or the Board of Aldermen of the City
13 of Winston-Salem or the Board of Adjustment of the City of Winston-Salem are given
14 authority in the territory outside of the corporate limits of the City of Winston-Salem,
15 the exercise of such authority beyond one mile from the corporate limits of the City of
16 Winston-Salem shall be subject to the approval of the Board of Commissioners of
17 Forsyth County."

18 Sec. 2. Section 25 of Chapter 677 of the 1947 Session Laws, as amended by
19 Section 2 of Chapter 381 of the 1973 Session Laws, reads as rewritten:

20 "Sec. 25. Grant of Power. The Board of Commissioners for the County of Forsyth is
21 hereby empowered, in accordance with the conditions and procedure specified in the
22 subsequent Sections of this Act, by resolution to regulate in any portion or portions of
23 Forsyth County which lie outside of the zoning jurisdiction of incorporated cities and
24 towns, the location, height, bulk, and size of buildings and other structures, the
25 percentage of lot which may be occupied, the size of yards, courts, and other open
26 spaces, the density and distribution of population, the uses of buildings and structures
27 for trade, industry, residence, recreation, public activities or other purposes, and the uses
28 of land for trade, industry, residence, recreation, agriculture, water supply conservation,
29 soil conservation, forestry or other purposes.

30 For any or all these purposes, the County may divide its territorial jurisdiction into
31 districts of any number, shape, and area that may be deemed best suited to carry out the
32 purposes of this section; and within those districts it may regulate and restrict the
33 erection, construction, reconstruction, alteration, repair or use of buildings, structures, or
34 land. All regulations shall be uniform for each class or kind of building throughout each
35 district, but the regulations in one district may differ from those in other districts;
36 provided, however, that the County may provide for the creation of special use districts
37 in addition to general use districts.

38 It is the purpose and intent of this section to permit Forsyth County to create general
39 use districts in which a variety of uses are permitted, and to also create special use
40 districts in which a single use is permitted upon the issuance by the Board of County
41 Commissioners of a special use permit prescribing the conditions under which such use
42 will be permitted.

1 A person petitioning for rezoning of a tract of land, where special use districts are
2 authorized by ordinance, may elect to request general use district zoning for said tract,
3 or he may elect to request special use district zoning for said tract.

4 If he elects to petition for general use district zoning, he may not refer, either in his
5 petition or at any hearings related to the petition, to the use intended for the property
6 upon rezoning. The Board of County Commissioners may not consider the intended use
7 in determining whether to approve or disapprove the petition, but shall consider the full
8 range of uses permitted within the requested general use district. If the petition is
9 approved, the re-zoned property may be used for any of the uses permitted in the
10 applicable general use district.

11 If the petitioner elects to petition for special use district zoning, the petition must
12 specify the actual use intended for the property specified in the petition, and the
13 intended use must be one permitted in the corresponding general use district. If the
14 petition is for special use district zoning, the Board of County Commissioners is to
15 approve or disapprove the petition on the basis of the specific use requested. If the
16 petition is approved, the Board shall issue a special use permit authorizing the requested
17 use with such reasonable conditions as the Board determines to be desirable in
18 promoting public health, safety and general welfare.

19 The conditions contained in a special use permit issued by the Board may include:
20 location of the proposed use on the property; the number of dwelling units; the location
21 and extent of support facilities such as parking lots, driveways, and access streets;
22 location and extent of buffer areas and other special purpose areas; the timing of
23 development; and such other matters as the petitioner may propose and the Board may
24 find appropriate, but not to include architectural review or controls. With approval of
25 the petitioner, the conditions may include that upon the occurrence or nonoccurrence of
26 a specified event or events, including a stated time period or time lapse, the property
27 automatically reverts to its immediately preceding zoning classification without further
28 notice, proceedings, hearings, or Board action.

29 It is the further intent of this section to permit the creation of districts for specific
30 uses and the imposition of reasonable conditions in order to secure the public health,
31 safety and welfare, and insure that substantial justice be done."

32 Sec. 3. This act shall apply only to the City of Winston-Salem and Forsyth
33 County.

34 Sec. 4. This act is effective upon ratification.